

N A R U C
National Association of Regulatory Utility Commissioners

EX PARTE OR LATE FILED

ORIGINAL

November 20, 2002

RECEIVED

NOV 21 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Chairman Michael Powell
Commissioner Kevin Martin
Commissioner Kathleen Abernathy
Commissioner Michael Copps
Commissioner Jonathan Adelstein
445 12th Street SW, Portals II Building
Washington, D.C. 20544

RE: Notice of Written Ex Parte Comment – Two Originals filed in the proceeding captioned: *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket Nos. 01-338, 96-98 and 98-147, Notice of Proposed Rulemaking, FCC 01-361 (rel. Dec. 20, 2001).

Dear Commissioners:

As this year ends, all eyes in the telecommunications industry are focused on your agency's plans to act in the above-captioned proceeding. As you know, just last month, NARUC Commissioners from all over the country converged on Detroit either in person or by phone to discuss local phone competition issues with two FCC Commissioner colleagues.

NARUC believes it speaks volumes of those FCC Commissioners' sensitivity to State concerns that they traveled to Detroit and devoted practically a whole day to the meeting. A representative from the office of the Chairman and another staff representative from the FCC's Wireline Competition Bureau also attended. We believe their presence demonstrates recognition that States must continue to play a significant role in the partnership fostered by the 1996 legislation. Commissioner Copps was unable to make the meeting because of some unavoidable conflicts, but he also made specific arrangements to speak separately with interested NARUC Commissioners on these issues.

This letter is to re-emphasize our commitment to the tasks Congress assigned to the State commissions. We urge each of you not to limit or restrict the tools available to the States in fulfilling our Congressionally assigned tasks as we join the FCC to meet our common goal of assuring that consumers reap the benefits of a competitive local market. In this environment, the country will benefit from State experimentation. The FCC should follow the suggestions of the recent D.C. Circuit decision and allow States to make the granular analysis needed to see which UNEs are required in their respective markets.

STATE FLEXIBILITY TO MAINTAIN UNE-P AS WELL AS THE ABILITY TO ADD TO ANY NATIONAL UNE LIST IS CRITICAL TO KEEPING COMPETITION "ON TRACK."

The undersigned strongly support, as a necessary prerequisite to keeping the competition initiative on track, continued State flexibility to maintain the UNE-P as an entry strategy, as well as the ability to add to any national list of UNEs. Any restriction on the State flexibility on this option will negatively impact the growth of local competition. We offer the following basic outline as our suggestions for the components of a useful FCC order in this docket.

No. of Copies Rec'd. _____
List AB 10

Elements State Regulators Urge as Components of any FCC Order ————

dt/

(1) NO STATE PREEMPTION:

Any FCC Order should make clear no preemption is intended or should be implied - particularly with respect to additions to the National list imposed by States.

(2) PRESUMPTIVE NATIONAL LIST THAT INCLUDES EXISTING UNE's

FCC list should, at a ~~minimum~~, include all ~~existing~~ items.

ORIGINAL

(3) STATE CHECK OFF BEFORE A UNE IS DE-LISTED

Carriers that ~~want to remove~~ an item from the list must make a factual case before a State commission

(4) TIMING OF IMPACT OF STATE DECISION

Any challenged UNE stays ~~on~~ the required list until State commission makes ~~contrary~~ finding.

(5) CAUCUS WITH STATES NECESSARY PREREQUISITE

FCC ~~should~~ caucus with State Commissions extensively before promulgating the "~~necessary~~ and impair" standard used to evaluate if a UNE should be available.

(6) STATE AUTHORITY TO ADD UNEs CONFIRMED

FCC should confirm its previous ~~ruling~~ that States ~~RETAIN~~ the right to add to the ~~national list~~ after ~~hearing~~ based ~~on~~ State and Federal law.

~~State~~ commissions remain focused ~~on~~ the difficult ~~tasks~~ of promoting facilities-based competition ~~as~~ envisioned by the 1996 Telecommunications Act ~~and assuring~~ customers receive better services and ~~more~~ choices at lower prices. We emphasize that we cannot accomplish that ~~important~~ economic policy goal without the availability of ~~effective competitive entry~~ strategies such as UNE-P.

Thank ~~you~~ for your attention to our concerns. Please do not hesitate to contact ~~any~~ one of ~~us~~ for additional information ~~on this~~ or any other telecommunications issue.

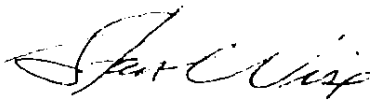
Sincerely,



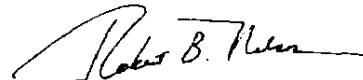
David A. Svanda, NARUC President;
Michigan Commissioner



Commissioner Joan Smith, Chair,
Telecommunications Committee



Stan Wise, NARUC First Vice President;
Georgia Commissioner



Commissioner Robert Nelson, Co-Vice Chair,
NARUC Telecommunications Committee



Marilyn Showalter, NARUC Second Vice
President; Washington Chairwoman



Thomas J. Dunleavy, Co-Vice Chair,
Telecommunications Committee

Additional Signatories to the Letter (The original is signed.):

New Jersey Commissioner Jack Alter
Arkansas Commissioner Daryl E. Bassett
Oregon Commissioner Lee Beyer
New Mexico Commissioner Jerome D. Block
Nebraska Chair Anne Boyle
South Dakota Chair James A. Burg
Vermont Commissioner John Burke
New Jersey Board Commissioner Fred Butler
Utah Commissioner Ric Campbell
District of Columbia Chairman Angel Cartegena
Michigan Chair Laura Chappelle
North Dakota Commissioner Anthony T. Clark
Vermont Commissioner David Coen
Maryland Commissioner J. Joseph Curran, III
Arkansas Commissioner Betty C. Dickey
Louisiana Commissioner Irma Dixon
Vermont Chair Michael Dworkin
Wyoming Chairman Steve Ellenbecker
Ohio Commissioner Ronnie Fergus
Louisiana Chair James M. Field
New Jersey Board Chair Jeanne M. Fox
Wyoming Commissioner Steve Furtney
Wisconsin Commissioner Bert Garvin
Connecticut Commissioner Jack Goldberg
Maryland Commissioner Ronald A. Guns
Illinois Commissioner Terry Harvill
Oregon Chair Roy Hemmingway
Washington Commissioner Richard Hemstad
Arkansas Chairnan Sandra L. Hochstetter
New Jersey Board President Connie Hughes
New Mexico Commissioner Herb H. Hughes
Illinois Commissioner Edward C. Hurley
Arizona Commissioner James M. Irvin
Nebraska Commissioner Lowell Johnson
Nebraska Commissioner Rod Johnson
Ohio Commissioner Judith A. Jones
Idaho Commissioner Paul Kjellander
Texas Chair Becky Klein
Illinois Commissioner Ruth K. Kretschmer
Iowa Commissioner Mark. O. Lambert
Nebraska Commissioner Frank Landis, Jr.
Wyoming Commissioner Kristin Lee
New Mexico Commiissioner Lynda M. Lovejoy
California Commissioner Lorretra Lynch
Ohio Commissioner Donald L. Mason
Indiana Chairman William D. McCarty
Maryland Commissioner Gail C. McDonald

ORIGINAL

New Mexico Commissioner Rory McMin
Utah Chairman Steve Mecham
Virginia Chairman Clinton Miller
Arizona Chairman William Mundell
Iowa Chairman Diane C. Munns
New Jersey Commissioner Carol J. Murphy
South Dakota Vice Chair Pam Nelson
Washington Commissioner Patrick J. Oshie
Texas Cornmissioner Brett Perlman
North Dakota Commissioner Leo M. Reinbold
Maryland Chainnan Catherine I. Riley
Indiana Commissioner Judith Ripley
South Dakota Commissioner Bob Sahr
North Carolina Chair Jo Anne Sanford
New Mexico Chairman Tony Schaefer
Ohio Chairman Alan Schriber
Iowa Commissioner Elliott Smith
Nevada Chainnan Donald L. Sodenberg
Illinois Cornmissioner Mary Francis Squires
Alaska Chair Nan Thompson
Nebraska Commissioner Gerald **Vap**
Alabama Commissioner George C. Wallace, Jr.
North Dakota President Susan E. Wefald
California Commissioner Carl Wood
Illinois Chairman Kevin K. Wright
District of Columbia Commissioner Agnes A. Yates
Indiana Commissioner David E. Ziegner

ORIGINAL